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THE AMERICAN BAR ASSOCIATION
ITS ORGANIZATION, HISTORY AND ACHIEVEMENTS

BY W. THOMAS KEMP*

THE American Bar Association holds its forty-sixth annual meeting in Minneapolis, Minnesota, August 29-31, 1923. It is therefore appropriate that the whole bar of Minnesota, who have so courteously invited the National Association to Minneapolis this year, should know something about the organization, history and achievements of the largest and one of the oldest organizations of lawyers in the world. A considerable portion of the bar of Minnesota are already members of the National Association, and to them many of the things hereinafter stated are well known; but it is hoped that all reputable lawyers of the great state of Minnesota will be sufficiently interested in the affairs of the National Association to join its ranks, and thereby assist in the important work which the future has in store for the advancement of the profession and the welfare of the nation.

ORGANIZATION

On July 1st, 1878, Benjamin H. Bristow, Kentucky; William M. Evarts, New York; George Hoadly, Ohio; Henry Hitchcock, Missouri; Carleton Hunt, Louisiana; Richard D. Hubbard, Connecticut; Alexander R. Lawton, Georgia; Richard C. McMurtrie, Pennsylvania; Stanley Mathews, Ohio; Edward J. Phelps, Vermont; John K. Porter, New York; Lyman Trumbull, Illinois; Charles R. Train, Massachusetts and J. Randolph Tucker, Virginia, issued a call for a conference to be held at Saratoga Springs, New York, August 21st, 1878, "to consider the feasibility and expediency of establishing an American Bar Association." It was then stated that "a body of delegates, representing the profession in all parts of the country, which should meet annually, for a comparison of views and friendly intercourse, might be not only a pleasant thing for those taking part in it, but of great service in helping to assimilate the laws of the different states, in extending the benefit of true reforms and in publishing the failure of unsuccessful experiments in legislation."

In pursuance of this call, seventy-five leading lawyers of the nation met at Saratoga Springs on August 21, 1878, and organized the American Bar Association, and proceeded to hold

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its first annual meeting. Twenty-one states were represented, New York leading with ten lawyers, Connecticut following with nine, Massachusetts with eight, Maryland with seven, and Louisiana, Pennsylvania and Vermont with six each. The trans-Mississippi states had but a single representative, U. M. Rose of Arkansas, afterwards as President of the Association. Of these charter members of the Association, four alone survive, Simeon E. Baldwin of Connecticut, and Francis Rawle of Pennsylvania, both of whom have since served as presidents of the Association, Edward T. Merrick of Louisiana, and Alfred Hemmeway of Massachusetts.

The organization meeting was presided over by Benjamin H. Bristow of Kentucky. Francis Rawle of Pennsylvania, and Isaac Grant Thompson of Albany, N. Y., were named secretaries of the conference. The constitution then adopted stated the purposes of the Association as follows:

"Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar."

This expression of the purposes of the Association has remained without change throughout nearly a half century of its existence.

The permanent officers of the Association elected at the first annual meeting were James O. Broadhead of Missouri, President, Edward Otis Hinkley of Maryland, Secretary, and Francis Rawle of Pennsylvania, Treasurer. In addition to these officers, the Association selected in pursuance of its constitution a vice-president from each state, a Council of one member from each state, and an Executive Committee of five members, including the secretary and treasurer *ex officio*. Standing committees of five members each were also appointed by the president on Jurisprudence; Judicial Administration and Remedial Procedure; Legal Education and Admission to the Bar; Commercial Law; International Law; Publications and Grievances.

HISTORY

From 1878 to 1922, the Association has held forty-five successive meetings. The first eleven of these meetings were held at Saratoga Springs, New York, the maximum attendance being one-hundred and forty-nine members. In 1889, the Association

met in Chicago, Illinois, and from that year until 1903, the meetings were held in even years at Saratoga Springs, and in odd years at some other place, varying from Boston, Massachusetts, to Denver, Colorado. In 1904, the year of the World's Fair in celebration of the anniversary of the Louisiana Purchase, the meeting was held in St. Louis, in conjunction with the International Congress of Jurists and Lawyers. Thereafter, the place of meeting swung to different parts of the nation, as far East as Portland, Maine, as far West as Seattle and San Francisco, and as far South as Chattanooga, Tennessee. One meeting only has been held outside of the country. In 1913, the Association met at Montreal, Canada, where a meeting twice as large as any of its predecessors was held in the midst of the delightful hospitality of the Canadian Bar, with the Lord Chancellor of England delivering the annual address. In 1917, the Association celebrated the fortieth year of its existence by returning to Saratoga Springs. The largest meeting in the history of the Association was held in San Francisco in 1922. Four special trains were run from Chicago to the Pacific Coast, for the accommodation of the Eastern members of the Association.

The Association has always pursued the policy of electing its president for a term of one year only. The roster of former presidents includes the names of Benjamin H. Bristow, William Allen Butler, David Dudley Field, John F. Dillon, James C. Carter, Joseph H. Choate, Alton B. Parker and Elihu Root of New York, Francis Rawle, Walter George Smith and Hampton L. Carson of Pennsylvania, James O. Broadhead, James Hagerman and Frederick W. Lehmann of Missouri, Frank B. Kellogg and Cordenio A. Severance of Minnesota, Alexander P. Lawton and Peter W. Meldrim of Georgia, Thomas J. Semmes, William Wirt Howe and Edgar H. Farrar of Louisiana, Simeon E. Baldwin of Connecticut, John Randolph Tucker and Henry St. George Tucker of Virginia, Charles F. Manderson of Nebraska, George R. Peck, J. M. Dickinson, Stephen S. Gregory and George T. Page of Illinois, George Sutherland of Utah, Moorfield Storey of Massachusetts, and William H. Taft, now Chief Justice of the United States.

During the forty-six years of its existence, there have been but two treasurers of the Association, Francis Rawle of Philadelphia, Pennsylvania, from 1878 to 1902, and Frederick E. Wadhams of Albany, New York, from 1902 to the present time.

During the same period, there have been four secretaries, Edward Otis Hinkley, from 1878 to 1893, and his son, John Hinkley, from 1893 to 1909, George Whitelock, from 1909 to 1920, and his partner, W. Thomas Kemp, from 1920 to the present time, all of Baltimore, Maryland.

It is impossible, within the limits of this paper, to make more than a passing reference to the long list of addresses read at the various meetings of the Association. Usually, at each meeting, the addresses have included the president's address, the annual address and one or two other papers upon timely topics. Until 1913, the president's address each year discussed the most noteworthy changes in the statute law on points of general interest, made in the several states and by Congress during the preceding year. Thereafter, the president selected his own subject. In 1914, William Howard Taft delivered the president's address on "Some Needed Federal Legislation." In 1916, Elihu Root spoke on "Public Service by the Bar." In 1917 George Sutherland discussed "Private Rights and Government Control." In 1920, Hampton L. Carson spoke upon "The Evolution of Representative Constitutional Government," and in 1921 (in place of the deceased president) James M. Beck read a paper on "The Spirit of Lawlessness." The last president's address was by Cordenio A. Severance on "The Constitution and Individualism."

The list of annual addresses commences in 1879 with Edward J. Phelps, who spoke on "John Marshall," and continues to 1922 when Calvin Coolidge discussed "The Limitations of the Law." During this period, annual addresses of interest and importance had been delivered by John F. Dillon, Simeon E. Baldwin, James C. Carter, William H. Taft, Lord Russell of Killowen, Joseph H. Choate, George R. Peck, John G. Carlisle, Alfred Hemenway, Alton B. Parker, Rt. Hon. James Bryce, Woodrow Wilson, William B. Hornblower, Frank B. Kellogg, Lord Chancellor Haldane, Elihu Root, Joseph W. Bailey, Albert J. Beveridge, Charles Evans Hughes, John W. Davis, and others.

In recent years, the Association has selected many of its speakers from foreign countries. Without attempting to furnish a complete list, we have had the pleasure of hearing Sir Wm. Rann Kennedy and Sir Frederick Pollock, of England, Rt. Hon. Sir Charles Fitz-Patrick, Chief Justice of the Dominion of Canada, Rt. Hon. Romulo S. Naon, Ambassador from the Argen-

tine Republic to the United States, Gaston De Leval of Belgium, Tsunejiro Miyaoka of Japan, Emilio Guglielmotti of Italy, Sir Auckland Geddes, Viscount Cave, and Sir John A. Simon, of England, Lord Shaw of Dunfermline, Scotland, and M. Henry Aubepin of Paris, France.

The Association has always closed its meetings with an annual dinner. In 1878, eighty-six members were present at Saratoga Springs; John B. H. Latrobe of Maryland presided. In 1922, ten hundred and thirty members were present at the annual dinner at San Francisco. The speakers were Beverly L. Hodghead of San Francisco, Rt. Hon. Lord Shaw of Dunfermline, M. Henry Aubepin, of Paris, John B. M. Baxter K. C. M. P., of St. John, N. B., John W. Davis of West Virginia, Senator Cornelius Cole of Los Angeles, and the Chief Justice of the United States.

A unique incident at the last annual dinner was the clear and forcible address of Senator Cole, delivered on the eve of his hundredth birthday. Coming to California with the 49'ers, Senator Cole began practicing law a year or two later in San Francisco. Some years later, he was elected to the United States Senate, and while in public service at Washington during the Civil War, traveled to Gettysburg with Abraham Lincoln, and sat on the platform with him when Lincoln delivered his immortal Gettysburg speech.

GROWTH OF THE ASSOCIATION

The Association commenced its existence in 1878 with 75 charter members, which was increased that year to 289. In 1888, the total membership was 752. In 1898, the number was 1496. In 1908, there were 3585 members. In 1918, there were 10,995. And in 1923, approximately 20,000 active members.

As a further indication of the growth of the activities of the Association, the treasurer's report for 1878 shows total receipts of \$1,065.10, over two-thirds of which was unexpended, and carried over for the next year. In 1922, the treasurer's total receipts amounted to \$120,639.94, and disbursements \$117,813.81.

PUBLICATIONS

From the beginning, the Association has published an annual report. The first annual report is a volume of 49 pages. The last annual volume contains 1028 pages.

In 1915, the Association commenced the publication of a quarterly Journal, which was continued in this form until 1920,

when the recommendation of a special committee was adopted and a monthly periodical of much wider range was initiated under the direction of an editor-in-chief, and a board of five associate editors. Great credit is due to the foresight and sagacity of the late Stephen S. Gregory of Chicago, first editor-in-chief of the Journal, for the successful launching of this periodical, and the Association as well as the profession at large, owe a debt of gratitude to the present editor-in-chief, Edgar B. Tolman of Chicago, under whose administration, the scope and character of the monthly Journal has been extended and improved.

COMMITTEES, SECTIONS AND ALLIED BODIES

The American Bar Association functions largely through its executive, standing and special committees, its various sections and its allied bodies.

The executive committee now is composed of eight elected members, and five ex officio members, including the president, last retiring president, chairman of the general council, secretary and treasurer, and is vested by the constitution with full power and authority in the interval between meetings of the Association, to do all acts and perform all functions which the Association itself may do or perform, except to amend the constitution and by-laws of the Association. The last meeting of the executive committee, held at the Hot Springs, Arkansas, was in session three days, and the record shows that over fifty distinct subjects were considered and acted upon by the committee during that time. There are now standing committees on Commerce, Trade and Commercial Law, International Law, Insurance Law, Jurisprudence and Law Reform, Legal Aid, Professional Ethics and Grievances, Admiralty and Maritime Law, Publicity, Publications, Noteworthy Changes in Statute Law, Memorials and Membership. There are special committees on Uniform Judicial Procedure, Finance, Change of Date of Presidential Inauguration, Classification and Restatement of the Law, Law of Aeronautics, Removal of Government Liens on Real Estate, Federal Taxation, Law Enforcement, American Citizenship and Judicial Ethics. All of these committees conduct their work on special subjects submitted to them throughout the year, and many of them submit printed reports at each annual session of the Association.

In 1893, the Association created its first section of the subject of Legal Education. This was followed in 1895 by the section

of Patent Law, and in 1908, by the Comparative Law Bureau, in 1913, by the Judicial Section, in 1915, the section of Public Utility Law, and in 1919 the section of Criminal Law and Criminology. All of these sections hold their meetings at the same place and time, but not in conflict with the sessions of the National Association. Any member of the Association is eligible to membership in the sections, which deal respectively with the branches of law indicated by the names of the sections.

In 1915, upon the suggestion of the then president of the Association, Elihu Root, the first conference of Bar Association Delegates was held on the day preceding the meeting of the Association. To this conference each State Bar Association was invited to send three delegates, and each local Bar Association two delegates. The success of the Conference was instantaneous, and annual conferences of increasing importance have resulted. By the new constitution of the Association, adopted in 1919, the conference of Bar Association Delegates was admitted formally as a section of the Association.

All sections have a chairman and other officers as provided in the constitution. Each of them is permitted to adopt its own by-laws and to conduct its own procedure, the only limitation being that action taken by a section must be reported to and approved by the Association, before such action becomes binding on the Association.

The National Conference of Commissioners on Uniform State Laws held its first annual meeting in 1892 at Saratoga Springs, for three days immediately preceding the meeting of the Association. This conference is not a section of the Association, but its work in promoting the uniform legislation is in furtherance of one of the declared objects of the Association, and a close affiliation has always existed between the two organizations. The conference has drafted and approved thirty-eight acts, some of which have been superseded, leaving at the present a total of thirty acts which have been recommended to the states for adoption.

A summary of the proceedings of each of the sections as well as of the conference of Commissioners on Uniform State Laws, is published in each annual volume of the Association reports.

SOME RECENT ACHIEVEMENTS

This article will be completed with a mere reference to some

of the more important achievements accomplished or fostered by the Association:

Canons of Ethics. The American Bar Association has formulated and promulgated the standard code of professional ethics. First adopted in 1908, the Canons of Ethics have appeared in each succeeding annual report of the Association. Many thousands of copies of the canons have been furnished to the Law Schools, Bar Associations, Law Libraries, individual lawyers and all persons applying therefor. These Canons of Ethics have been adopted by the authorities in many of the states, and they are universally recognized as the standard declaration of professional conduct on the part of the lawyers of the country.

Code of Judicial Ethics. In response to a growing demand, the Association two years ago undertook the formation of a code of judicial ethics, and for this purpose the executive committee of the Association appointed a special committee, consisting of two judges and three lawyers. The committee has adopted a preliminary draft of the code of judicial ethics, which have been published in the February, 1923, Journal, pages 73 to 76. All members of the Association have been invited to submit suggestions concerning the proposed code and it is understood that a final report from Chief Justice Taft, as Chairman of the committee, will be submitted at the Minneapolis meeting.

Judicial Recall Opposed. From 1911 to 1919, the Association, through its Special Committee to Oppose Judicial Recall, assumed a commanding position in opposition to the heresy of judicial recall and all kindred measures. By the instrumentality of this committee, the Association conducted a vigorous campaign throughout the country, and particularly in those states where the doctrine had obtained a foothold, with the result that the growing menace of an extension of this movement was completely removed. By 1919 the movement itself had been so far frustrated that with the submission of the report of the special committee at the Boston meeting in 1919, it was deemed unnecessary to continue further the activities of the committee. During the eight years of active opposition to judicial recall, Rome G. Brown of Minneapolis, Chairman of the special committee, directed the campaign in behalf of the Association.

Standards of Legal Education. In 1921 the Section of Legal Education reported to the Association, and the Association adopted with overwhelming approval, certain requirements relat-

ing to preliminary education and certain standards of legal instruction, and also provided for the publication of a list of law schools complying with such standards. The Association thereupon authorized the calling of a special conference on legal education at which the various state and local bar associations were invited to send delegates. This conference was held in Washington, D. C., February 23-24, 1922, when, after a full discussion, the standards of legal education were adopted and recommended to the authorities in the various states for appropriate legislation in support thereof.

Restatement of the Law. As above stated, the Association has a special committee on Classification and Restatement of the Law. Spirited by the activities of this committee and sponsored by the Association of American Law Schools, a voluntary committee on the Establishment of a Permanent Organization for the Improvement of the Law called together a representative gathering of the American Bar which was held in Washington, D. C., on February 23rd, 1923, to consider the report and recommendations of the voluntary committee. The conference thus called resulted in the formation and incorporation of the American Law Institute of which Elihu Root is Honorary President, George W. Wickersham, President, and William Draper Lewis, Secretary. The Institute is governed by a council of twenty-one members under whose guidance this great and important work has been undertaken. A meeting of the Council of the American Law Institute will be held at Minneapolis at the time of the meeting of the Association. The Institute is independently organized and has been liberally endowed by the Carnegie Foundation.

Law Enforcement. The alarming growth of crime and the prevalence of increased lawlessness in this country was responsible for the recent creation of a special committee on Law Enforcement, and this committee submitted a preliminary report with certain recommendations at the 1922 meeting of the Association. Since that meeting, the committee has continued its investigations in this country and the members thereof have recently left on a European trip to study conditions abroad. A special position on the program for the Minneapolis meeting will be assigned to the further report of this important committee, which will be submitted by former Governor Charles S. Whitman of New York, its present Chairman.

American Citizenship. As an antidote for the teachings of dangerous fanatics and the resulting disrespect for law, the Association has undertaken an active campaign designed to instill in the public mind an understanding of the fundamental principles of American Constitution and an appreciation of the benefits of American citizenship. This campaign has been conducted by a special committee appointed for that purpose, and the Chairman of the committee—R. E. L. Saner of Dallas, Texas—will report on the activities and accomplishments of his committee.

World Court. Upon the suggestion of James Brown Scott, chairman of the committee on International Law, the Association at its 1922 meeting, adopted resolutions favoring participation by the United States in the permanent Court of International Justice, and the committee was instructed to formulate and report to the Association at its next meeting such amendments or changes in the statute under which the said court is now constituted as may, in the judgment of the committee, make it possible for the United States to accept membership therein. In pursuance of this instruction, the Committee on International Law will submit its recommendations at the Minneapolis meeting.

The above enumeration of some of the achievements of the Association and certain of the problems still under consideration is largely by way of illustration, and is by no means complete or exclusive. Each and all of the standing and special committees and sections of the Association have performed and are now doing important work in the development and reform of American jurisprudence. The Association has grown rapidly not only in numbers but in its activities and usefulness. Without indulging in political or controversial subjects, this great working organization of American lawyers has taken its proper place on the firing line of civilization, and keeping pace with the general progress of the nation, it aims to promote and develop the science of government restrained by law.